

November 19, 2003

Cecilia Duquela  
State Representative  
Office of Juvenile Justice and Delinquency Prevention  
State and Tribal Assistance Division  
800 K Street, NW  
Washington, DC 20531

Dear Ms. Duquela:

The State of Arizona continues to actively support the core requirements of the Juvenile Justice Delinquency Prevention Act of 1974 to ensure the fair and equitable treatment of juveniles. Enclosed is Arizona's 2003 Compliance Monitoring Report. The report covers the period from July 1, 2002 through June 30, 2003.

If you have any questions and/or comments regarding the report, please contact me at (602) 542-3404.

Sincerely,

Stacy Reinstein  
Juvenile Justice Specialist  
Governor's Division for Children

ENCLOSURE

## Compliance Monitoring Report Technical Assistance Tool

*This form requests the minimum information required to demonstrate the extent of compliance with section 223(a)(12)(A), 223(a)(12)(B), 223(a)(13), 223(a)(14) of the JJDP Act of 1974, as amended. The reporting requirements may be found in 28 C.F.R. 31.303(f)(5): Reporting Requirement. This form is a technical assistance tool and its use is optional. For questions regarding this technical assistance tool, please contact your OJJDP State Representative at (202) 307-5924. This version is dated October 2001.*

### A. General Information:

1. Year of Monitoring Report:

2003

2. Name and Address of State Planning Agency:

Name of State Agency:

Governor's Office for Children, Youth & Families

Address Line 1:

Division for Children

Address Line 2:

1700 West Washington, Suite 101

Arizona

City: Phoenix

State:

Zip:

85007

3.

Contact Person's Name:

Stacy Reinstein, JJ Specialist

Contact Phone Number:

(602) 542-3404

4. During the State's monitoring effort, was the Federal definition or State definition for Criminal Type Offender, Status Offender, or Non-Offender used?

Federal Definitions were used in this monitoring report.

5. Total juvenile population of the State under age 18 according to the most recent available U.S. Bureau of Census data or census projection:

Population of Arizona Under 18 (2000 Census):

1,366,947

6. Enter the age at which original juvenile court jurisdiction ends: **18**

7. Enter the reporting period dates for this Compliance Monitoring Report.

Facility Classification	Reporting Period Begins	Reporting Period Ends	Total Months Reporting
Juvenile Detention Centers	07/01/02	07/01/03	12.00
Juvenile Training Schools	07/01/02	07/01/03	12.00
Adult Jails	07/01/02	07/01/03	12.00
Adult Lockups	07/01/02	07/01/03	12.00

8.

Enter the total number of public and private secure detention and correctional facilities, the total number of facilities reporting data (include in this number the facilities that annually submit written certification that they never hold juveniles), and the number of facilities which received an on-site inspection during the past twelve months.

Facility Classification	Total Number of Facilities	Facilities Reporting Data	Facilities On-Site Inspected
Juvenile Detention Centers	14	14	14
Juvenile Training Schools	5	5	2
Adult Jails	33	33	12
Adult Lockups	106	106	66
Collocated Facility (Approved)	0	0	0
Collocated Facility (Non-approved)	0	0	0
Facility Classification	Percentage Reporting Data		Percentage Inspected
Juvenile Detention Centers	100.00%		100.00%
Juvenile Training Schools	100.00%		40.00%
Adult Jails	100.00%		36.36%
Adult Lockups	100.00%		62.26%
Collocated Facility (Approved)	#N/A		#N/A
Collocated Facility (Non-approved)	#N/A		#N/A

9. Enter the number of public and private secure detention and correctional facilities which held juveniles during the past twelve months. If your State has received approval from OJJDP to use the Removal Exception, also indicate the number of facilities located outside a Metropolitan Statistical Area which meet this exception.

Facility Classification	Total Number of Facilities Holding Juveniles	Total Number of Facilities Meeting the Removal Exception
Adult Jails	2	0
Adult Lockups	62	0

**B. Section 223(a)(12)(A): Removal of status offenders and non-offenders from secure detention and correctional facilities.**

1. Enter the total number of accused and adjudicated status offenders and nonoffenders, including status offender Valid Court Order violators, out-of-state runaways and Federal wards, securely detained for any length of time in the following public and private facilities:

(Do not include juveniles held in violation of the Youth Handgun Safety Act or similar State law.)

Facility Classification	Accused Number Reported	Adjudicated Number Reported	Total Violations After Adjusting for Non-Reporting Facilities and Annualizing
Adult Jails	3	0	3.00
Adult Lockups	116	0	116.00

2. Enter the total number of accused status offenders and nonoffenders, including out-of-state runaways and Federal wards, securely detained for longer than 24 hours (not including weekends or holidays) in the following public and private facilities:

(Do not include juveniles who have violated a Valid Court Order or juveniles held in violation of the Youth Handgun Safety Act or a similar State law.):

Facility Classification	Number Reported	Total Violations After Adjusting for Non-Reporting Facilities and Annualizing
Juvenile Detention Centers	404	404.00
Juvenile Training Schools	0	0.00

3. Enter the total number of adjudicated status offenders and nonoffenders, including out-of-state runaways and Federal wards, securely detained for any length of time in the following public and private facilities:

(Do not include juveniles who have violated a Valid Court Order or juveniles held in violation of the Youth Handgun Safety Act or a similar State law.):

Facility Classification	Number Reported	Total Violations After Adjusting for Non-Reporting Facilities and Annualizing
Juvenile Detention Centers	21	21.00
Juvenile Training Schools	0	0.00

**Section 223(a)(12)(A): Total Number of Violations**

**544.00**

**Section 223(a)(12)(A): Rate of status offender and nonoffender detention and correctional institutionalization per 100,000 population under 18:**

**39.80**

4. Enter the total number of status offenders securely detained in the following public and private facilities pursuant to a judicial determination that the juvenile has violated a Valid Court Order:

Facility Classification	Number of VCOs Reported	Total VCOs After Adjusting for Non-Reporting Facilities and Annualizing
Juvenile Detention Centers	0	0.00
Juvenile Training Schools	0	0.00

5. Enter the total number of juveniles held pursuant to Title 18 U.S.C., Section 922(x) (The Youth Handgun Safety Act), securely detained for any length of time in the following public and private facilities:

Facility Classification	Number of 922(x) Juveniles Reported	Total 922(x) Juveniles After Adjusting for Non-Reporting Facilities and Annualizing
Juvenile Detention Centers	6	6.00
Juvenile Training Schools	0	0.00
Adult Jails	0	0.00
Adult Lockups	0	0.00

6. Enter the total number of out-of-State runaways and Federal wards securely held beyond 24 hours in a juvenile detention center or training school:

Facility Classification	After Adjusting for Non-Reporting Facilities and Annualizing	
	Out-of-State Runaways	Federal Wards
Juvenile Detention Centers	61	141
Juvenile Training Schools	0	0

7. Enter the total number of accused and adjudicated status offenders and non-offenders placed in facilities that are:

	Number of Juveniles:
Not near their home community	0
Not the least restrictive appropriate alternative	0
Not community-based	0

**C. Section 223(a)(13): Separation of Juveniles and Adults.**

1. Enter the number of public and private correctional facilities used for secure detention and confinement of both juvenile offenders and adult offenders which did not provide sight and sound separation:

Facility Classification	Number of Facilities That Did Not Provide Sight and Sound Separation of Juveniles
Juvenile Detention Center	0
Juvenile Training School	0
Adult Jails	0
Adult Lockups	0

2. Enter the number of juvenile offenders and nonoffenders not sight and sound separated from adult criminal offenders:

Facility Classification	Number Reported	Total Violations After Adjusting for Non-Reporting Facilities and Annualizing
Juvenile Detention Center	0	0.00
Juvenile Training School	0	0.00
Adult Jails	0	0.00
Adult Lockups	0	0.00

3. For approved collocated facilities, enter the number of juvenile offenders and nonoffenders detained that were not separated from the management, security or direct care staff of the adult jail or lockup.

Facility Classification	Number Reported
Approved Collocated Facility	0

**Section 223(a)(13): Total Number of Violations:**

**0.00**

**D. Section 223(a)(14): Removal of juveniles from adult jails and lockups.**

- 1. Enter the total number of accused juvenile criminal-type offenders held securely in adult jails, lockups, and non-approved colocated facilities in excess of six (6) hours:**

(Include juveniles held longer than six hours in those counties meeting the removal exception criteria.)

	Number Reported	Total Violations After Adjusting for Non-Reporting Facilities and Annualizing
Adult Jails	0	0.00
Adult Lockups	46	46.00

- 2. Enter the total number of accused juvenile criminal-type offenders held securely in adult jails, lockups, and non-approved colocated facilities for less than six (6) hours for purposes other than identification, investigation, processing, release to parent(s), transfer to court, or transfer to a juvenile facility following initial custody:**

	Number Reported	Total Violations After Adjusting for Non-Reporting Facilities and Annualizing
Adult Jails	0	0.00
Adult Lockups	0	0.00

- 3. Enter the total number of adjudicated juvenile criminal-type offenders held securely in adult jails, lockups, and non-approved colocated facilities in excess of six hours prior to or following a court appearance or for any length of time not related to a court appearance:**

	Number Reported	Total Violations After Adjusting for Non-Reporting Facilities and Annualizing
Adult Jails	0	0.00
Adult Lockups	0	0.00

- 4. If your State has received approval from OJJDP to use the Removal (Rural) Exception, enter the total number of juveniles accused of a criminal-type offense who were held in excess of six hours but less than twenty-four hours awaiting an initial court appearance in areas meeting the Removal Exception.**

	Number Reported	Total After Adjusting for Non-Reporting Facilities and Annualizing
Adult Jails	0	0.00
Adult Lockups	0	0.00

5. If your State has received approval from OJJDP to use the Removal Exception, enter the total number of juveniles accused of a criminal-type offense who were held in excess of twenty-four hours but less than an additional forty-eight hours awaiting an initial court appearance in areas meeting the Removal Exception due to conditions of distance or lack of ground transportation.

	Number Reported	Total After Adjusting for Non-Reporting Facilities and Annualizing
Adult Jails	0	0.00
Adult Lockups	0	0.00

6. If your State has received approval from OJJDP to use the Removal Exception, enter the total number of juveniles accused of a criminal-type offense who were held in excess of twenty-four hours but not more than an additional twenty-four hours after the time such conditions as adverse weather allow for reasonably safe travel in areas meeting the Removal Exception.

	Number Reported	Total After Adjusting for Non-Reporting Facilities and Annualizing
Adult Jails	0	0.00
Adult Lockups	0	0.00

**Section 223(a)(13): Jail Removal Violations:**

Total Jail removal violations listed above in numbers 1-3 **46.00**

Subtract total Jail Removal Exceptions reported above in numbers 4-6 **0.00**

Add accused and adjudicated status offenders held securely in adult jails and lockups reported in DSO worksheet **119.00**

**TOTAL NUMBER OF JAIL REMOVAL VIOLATIONS: 165.00**

Total juvenile population of the State under the age at which original juvenile court jurisdiction ends, according to the most recent available U.S. Bureau of Census data or census projection. (This was previously reported in the "General Info" section.) **1,366,947**

**Section 223(a)(12)(A): Rate of jail removal violations per 100,000 population under 18: 12.07**



## Arizona Compliance Monitoring Report 2003 State Summary: DSO

**Section 223(a)(12)(A): Removal of status offenders and non-offenders from secure detention and correctional facilities.**

<b>Rate of status offender and nonoffender detention and correctional institutionalization per 100,000 population under 18:</b>	<b>39.80</b>
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The State is likely ineligible for a finding of full compliance with de minimis exceptions because of excessive and significant levels of DSO violations. Contact your OJJDP State Representative to discuss this.

### **NOTE:**

**When Federal Ward and Out-of-State Runaway violations are removed from the DSO count, Arizona's DSO violation rate is 25.02. Therefore, Arizona responds to Criteria B and C on the following pages, as per de minimis requirements.**

**Criterion B:**

The following information must be provided in response to Criterion B and must be sufficient to make a determination as to whether the instances of non-compliance with DSO as reported in the State's monitoring report were in apparent violation of, or departures from, State law or established executive or judicial policy. OJJDP will consider this criterion to be satisfied by those States that demonstrate that all or substantially all of the instances of non-compliance were in apparent violation of, or departures from, State law or established executive or judicial policy. This is because such instances of noncompliance can more readily be eliminated by legal or other enforcement processes. The existence of such law or policy is also an indicator of the commitment of the State to the deinstitutionalization requirement and to achieving and maintaining future 100% compliance. Therefore, information should also be included on any newly established law or policy which can reasonably be expected to reduce the State's rate of institutionalization in the future.

1. A brief description of the non-compliant incidents must be provided which includes a statement of the circumstances surrounding the instances of noncompliance. (For example: Of 15 status offenders/nonoffenders held in juvenile detention or correctional facilities during the 12 month period for State X, 3 were accused status offenders held in jail in excess of 24 hours, 6 were accused status offenders held in detention facilities in excess of 24 hours, 2 were adjudicated status offenders held in a juvenile correctional facility, 3 were accused status offenders held in excess of 24 hours in a diagnostic evaluation facility, and 1 was an adjudicated status offender placed in a mental health facility pursuant to the court's status offenders jurisdiction.) Do not use actual names of juveniles.

2. Describe whether the instances of non-compliance were in apparent violation of State law or established executive or judicial policy. A statement should be made for each circumstance discussed in item 1 above. A copy of the pertinent/applicable law or established policy should be attached. (For example: The 3 accused status offenders were held in apparent violation of a State law which does not permit the placement of status offenders in jail under any circumstances. Attachment "X" is a copy of this law. The 6 status offenders held in juvenile detention were placed there pursuant to a disruptive behavior clause in our statute which allows status offenders to be placed in juvenile detention facilities for a period of up to 72 hours if their behavior in a shelter care facility warrants secure placement. Attachment "X" is a copy of this statute. A similar statement must be provided for each circumstance.)

## Criterion B

1. A brief description of the non-compliant incidents must be provided which includes a statement of the circumstances surrounding the instances of non-compliance. (For example, Of 15 status offenders/nonoffenders held in juvenile detention or correctional facilities during the 12 month period for State X, 3 were accused status offenders held in jail in excess of 24 hours, 6 were accused status offenders held in detention facilities in excess of 24 hours, 2 were adjudicated status offenders held in a juvenile correctional facility, and 1 was an adjudicated status offender placed in a mental health facility pursuant to the court's status offenders jurisdiction.) Do not use actual names of juveniles.

### Answer:

**Arizona had a total of 544 actual DSO violations during the 2003 reporting year. The breakdown of these violations is as follows:**

#### **Adult Jails and Lockups**

Total violations: 119 (22 percent of total DSO Violations)

##### Accused Status Offenders in a Secure Area for Any Length of Time

Charges	Number of Violations
Curfew	20
Incorrigible	8
Minor Consumption/Possession of Alcohol	52
Runaway	27
Tobacco	1
Truancy	1
Out of State Runaway	2
<b>TOTAL</b>	<b>111</b>

##### Non-offenders in a Secure Area for Any Length of Time

Charges	Number of Violations
Hold for CPS	4
Found Juveniles	2
Missing Juveniles	2
<b>TOTAL</b>	<b>8</b>

## Juvenile Detention Centers

Total Violations: 425 (78 percent of total DSO violations)

Charges	Number of Violations
Truancy	2
Incorrigible	1
Alcohol	10
In-State Runaway	23
Out-of-State Runaways	60
Federal Wards	141
Adjudicated Status Offenders	21
Possible Violations of a VCO <sup>1</sup>	148
Charges not provided	19
<b>TOTAL</b>	<b>425</b>

**It should be noted that when the Federal Ward and Out-of-State Runaway violations are removed from the total DSO violation count, there are only 342 total remaining DSO violations, which would give Arizona a revised violation rate of 25.02.**

- Describe whether the instances of non-compliance were in apparent violation of State law or established executive or judicial policy. A statement should be made for each circumstance discussed in item 1 above. A copy of the pertinent/applicable law or established policy should be attached. (For example, The 3 accused status offenders were held in apparent violation of a State law, which does not permit the placement of status offenders in jail under any circumstances. Attachment "X" is a copy of this law. The 6 status offenders held in juvenile detention were placed there pursuant to a disruptive behavior clause in our statute which allows status offenders to be placed in juvenile detention facilities for a period of up to 72 hours if their behavior in a shelter care facility warrants secure placement. Attachment "X" is a copy of this statute. A similar statement must be provided for each circumstance.)

### **Answer:**

Data reported by adult jails and lockups show that of the 119 actual DSO violations occurring in these facilities during the 2003 reporting year, **56 percent were in apparent violation of Arizona Revised Statute (A.R.S) § 8-305**. Paragraph D of this law (page 9d) states that status offenders (incorrigibles) may not be securely detained in an adult jail or lockup. The 44% of violations that are not in apparent violation of State law are minor in possession/consumption of alcohol offenses, due to the fact that A.R.S. § 4-244, (page 9e) paragraph 9, states that it is illegal for a minor to possess or consume spirituous liquor; A.R.S. § 4-246 (page 9e) classifies a violation of § 4-244.9 as a class 1 misdemeanor (delinquent charge).

Data reported by juvenile detention centers show that there were 404 actual DSO violations in the 2002 reporting year. However, of that 404, a total of 202 (50 percent) were Federal Wards and out-of-state runaways. **Therefore, only 202 (50 percent) violations were actual status offenders detained.**

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<sup>1</sup> Although juvenile detention centers reported detentions as a result of a violation of a valid court order, there is no a formal court process or verification in place to ensure all criteria on the OJJDP valid court order checklist are in place. Therefore, these detentions have been included in the total number of violations of the DSO criteria.

Further, a total of 148 of these detentions may have qualified as a VCO exception; however, because Arizona does not have this process in place, these detentions must be reported as violations. If the VCO were in use, only 54 violations (13 percent) would remain.

With the change in the VCO criteria in the 2002 reauthorization of the JJDP Act, Arizona will begin to utilize the VCO Exception beginning in the 2004 reporting year, thus eliminating a significant portion of reported violations.

A.R.S. § 8-305, paragraph A (page 9d) permits the secure detention of status offenders (incorrigibles) in juvenile detention facilities; therefore, these violations are not in apparent violation of State law. The Arizona Rules of Procedure for the Juvenile Court Rule 23,<sup>2</sup> Paragraph C (page 9f) time frames have the *potential* to allow for the secure detention of juveniles for up to 48 hours before an initial detention hearing. However, as evidenced by the breakdown of violations, detentions exceeding the allowable time frame before an initial court appearance are not a factor in Arizona's compliance with DSO.

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<sup>2</sup> It should be noted that Arizona Rules of Procedure for the Juvenile Court time restrictions do not exclude weekends or holidays.

8-305. Detention center; jail; separate custody

- A. The county board of supervisors or the county jail district, if authorized pursuant to title 48, chapter 25, shall maintain a detention center that is separate and apart from a jail or lockup in which adults are confined and where juveniles who are alleged to be delinquent or children who are incorrigible and within the provisions of this article shall be detained when necessary before or after a hearing or as a condition of probation. The board may enter agreements with public or private entities to acquire land for, build, purchase, lease-purchase, lease or expand a detention center required by this section.
- B. The board of supervisors or the county jail district, if authorized pursuant to title 48, chapter 25, may provide for the detention of juveniles who are accused or convicted of a criminal offense in a jail or lockup in which adults are confined. A juvenile who is confined in a jail or lockup in which adults are confined shall be kept in a physically separate section from any adult who is charged with or convicted of a criminal offense, and no sight or sound contact between the juvenile and any charged or convicted adult is permitted, except to the extent authorized under federal laws or regulations.
- C. A juvenile, pending a juvenile hearing, shall not be confined with adults charged with or convicted of a crime, except that:
  - 1. A juvenile who is accused of a criminal offense or who is alleged to be delinquent may be securely detained in such location for up to six hours until transportation to a juvenile detention center can be arranged if the juvenile is kept in a physically separate section from any adult who is charged with or convicted of a crime and no sight or sound contact between the juvenile and any charged or convicted adult is permitted, except to the extent authorized under federal laws or regulations.
  - 2. A juvenile who is transferred as provided in section 8-327 to the criminal division of the superior court may be securely detained if the juvenile is kept in a physically separate section from any adult charged with or convicted of a crime, and no sight or sound contact with any charged or convicted adult is permitted, except to the extent authorized under federal laws or regulations.
  - 3. A juvenile who is arrested for an offense listed in section 13-501 may be detained in a juvenile facility until formally charged as an adult. After a juvenile has been formally charged as an adult the juvenile may be securely detained in an adult facility if the juvenile is detained separately from any adult charged with or convicted of a crime, except to the extent authorized under federal laws or regulations.
- D. A child who is alleged to be delinquent or who is alleged to be incorrigible shall not be securely detained in a jail or lockup in which adults charged with or convicted of a crime are detained. A child may be nonsecurely detained if necessary to obtain the child's name, age, residence or other identifying information for up to six hours until arrangements for transportation to any shelter care facility, home or other appropriate place can be made. A child who is nonsecurely detained shall be detained separately from any adult charged with or convicted of a crime, and no sight or sound contact with any charged or convicted adult is permitted, except to the extent authorized under federal laws or regulations.
- E. Any detained juvenile or child who, by the juvenile's or child's conduct, endangers or evidences that the juvenile or child may endanger the safety of other detained children shall not be allowed to intermingle with any other juvenile or child in the detention center.
- F. Pursuant to section 8-322, the county board of supervisors, the county jail district board of directors or the administrative office of the courts on behalf of the juvenile court may enter into an agreement with public or private entities to provide the detention centers required by subsection A of this section.

#### 4-244. Unlawful acts

It is unlawful:

9. Except as provided in paragraphs 10 and 11 of this section, for a licensee or other person to sell, furnish, dispose of or give, or cause to be sold, furnished, disposed of or given, to a person under the legal drinking age or for a person under the legal drinking age to buy, receive, have in the person's possession or consume spirituous liquor. The provisions of this paragraph shall not prohibit the employment by an off-sale retailer of persons who are at least sixteen years of age to check out, if supervised by a person on the premises who is at least nineteen years of age, package or carry merchandise, including spirituous liquor, in unbroken packages, for the convenience of the customer of the employer, if the employer sells primarily merchandise other than spirituous liquor.

#### 4-246. Violation: classification

A. A person violating any provision of this title is guilty of a class 2 misdemeanor unless another classification is prescribed.

B. A person violating section 4-244, paragraph 9, 14 or 33 is guilty of a class 1 misdemeanor.

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17B A.R.S. Juv.Ct.Rules of Proc., Rule 23

#### RULES OF PROCEDURE FOR THE JUVENILE COURT

#### PART II. DELINQUENCY AND INCORRIGIBILITY

#### 2. DELINQUENCY AND INCORRIGIBILITY PROCEEDINGS

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Current with amendments received through 09/01/2001

#### Rule 23. Detention and Probable Cause Hearing

A. Report To Court. Except for an arrest pursuant to a warrant, any person who brings a juvenile to a juvenile court detention facility shall make a report to the authorized juvenile court officer in the manner prescribed by the juvenile court in each county setting forth the reasons why the juvenile should be detained.

B. Admission to Detention. Upon admission to the detention facility, the authorized juvenile court officer shall:

1. Notify the juvenile of the reason for admission;
2. Notify the parent, guardian or custodian of the juvenile of the reason for admission and inform such persons of the location, date and time of the detention hearing. The detention hearing may be held without the presence of the juvenile's parent, guardian or custodian, if they cannot be located or fail to appear for the hearing;
3. Make a written record of the time and manner of notification;
4. Make a determination of whether the juvenile's conduct endangers or could endanger the safety of other detained juveniles and if so, restrict the juvenile's contact with other detained juveniles;
5. Advise the juvenile of the right to telephone a parent, guardian or custodian and counsel immediately after admission to a detention facility; and
6. Advise the juvenile of the right to visitation, in private, by the parent, guardian or custodian and counsel. After the initial visit, the juvenile may be visited during normal visiting hours or by special appointment if required to prepare for a hearing.

C. Length of Detention. No juvenile shall be held in detention for more than twenty-four (24) hours unless a petition alleging incorrigible or delinquent conduct or a criminal complaint has been filed. No juvenile shall be held longer than twenty four (24) hours after the filing of a petition unless so ordered by the court after a hearing. If a hearing is not held within twenty- four (24) hours of the time of filing of the petition, the juvenile shall be released from the detention facility to a parent, guardian, custodian or other responsible person. If no parent, guardian, custodian or other responsible person can be located, the court shall release the juvenile to the Department of Economic Security.

D. Detention Hearing. Probable cause may be based upon the allegations in a petition, complaint or referral filed by a law enforcement official, along with a properly executed affidavit or sworn testimony. If the charging document is an Arizona Ticket and Complaint form, the complaint shall also serve as an affidavit. The affidavit may serve as the oath before a magistrate for purposes of [Rule 2.4, Ariz. R. Crim. P.](#) The victim of the offense has the right to be heard at the detention hearing, as provided by law. A juvenile shall be detained only if there is probable cause to believe that the juvenile committed the acts alleged in the referral, petition, or complaint, and there is probable cause to believe;

1. The juvenile otherwise will not be present at any hearing; or
2. The juvenile is likely to commit an offense injurious to self or others; or
3. The juvenile must be held for another jurisdiction; or
4. The interests of the juvenile or the public require custodial protection; or
5. The juvenile must be held pending the filing of a complaint pursuant to [A.R.S. 13-501](#).

E. Release From Detention. The court may release the juvenile and set such terms and conditions of release as deemed appropriate. Upon release from any detention facility, the court shall advise the juvenile that any violation of release conditions or the failure to appear at future proceedings could result in the issuance of a warrant for the arrest and detention of the juvenile and that the court may proceed with future hearings in the juvenile's absence. Upon request of the victim, the court shall provide the victim with a copy of the terms and conditions of the juvenile's release, as provided by law.

F. Violation of Conditions of Release. The juvenile probation officer responsible for supervising the juvenile or the prosecutor may file a written request with the court to revoke the juvenile's release if there is probable cause to believe the juvenile has violated a condition of release. The request shall state the substance of the conduct which is alleged to have violated the conditions of release previously imposed. The court shall proceed in accordance with the requirements of this rule. If the probation officer or prosecutor does not file a motion to revoke release, nothing shall preclude the victim from filing the request directly with the court, as provided by law.

G. Release to County Jail. Upon the filing of a criminal complaint charging a juvenile with an offense listed in [A.R.S. 13-501](#), the juvenile may be released from the juvenile detention facility to the county jail. The filing of a criminal complaint shall be the date of arrest for purposes of Rules 4 & [8.2, Ariz. R. Crim. P.](#)

H. Review of Detention. The court may review the detention status of a juvenile upon written motion of the juvenile, the prosecutor or upon the court's own motion. The motion must allege material facts not previously presented to the court. A hearing on the motion to review detention status shall be held within five (5) days of the filing of the motion. The victim has the right to be heard concerning the release of the juvenile and the conditions of release, as provided by law. Acceleration of the motion may be granted upon written request demonstrating extraordinary circumstances and that the acceleration is necessary in the interests of justice.

#### CREDIT

CREDIT(S)

2001 Electronic Update

**Added Oct. 27, 2000, effective Jan. 1, 2001. Amended nunc pro tunc, Jan. 11, 2001, effective Jan. 1, 2001.**



**Criterion C:**

Criterion C is the extent to which an acceptable plan has been developed which is designed to eliminate the noncompliant incidents within a reasonable time, where the instances of noncompliance either (1) indicate a pattern or practice, or (2) appear to be consistent with State law or established executive or judicial policy, or both.

If the State determines that the instances of non-compliance (1) do not indicate a pattern or practice, and (2) are inconsistent with and in apparent violation of State law or established executive or judicial policy, then the State must explain the basis for this determination. In such case no plan would be required as part of the request for a finding of full compliance.

The following must be addressed as elements of an acceptable plan for the elimination of non-compliant incidents that will result in the modification or enforcement of state law or executive or judicial policy to ensure consistency between the State's practices and the JJDP Act deinstitutionalization requirements.

1. If the instances of non-compliance are sanctioned by or consistent with State law or executive or judicial policy, then the plan must detail a strategy to modify the law or policy to prohibit non-compliant placement so that it is consistent with the Federal deinstitutionalization requirement.
2. If the instances of non-compliance are in apparent violation of State law or established executive or judicial policy, but amount to or constitute a pattern or practice rather than isolated instances of noncompliance, the plan must detail a strategy which will be employed to rapidly identify violations and ensure the prompt enforcement of applicable State law or executive or judicial policy.
3. The plan must be targeted specifically to the agencies, courts, or facilities responsible for the placement of status offenders and nonoffenders in compliance with DSO. It must include a specific strategy to eliminate instances of non-compliance through statutory reform, changes in facility policy and procedure, modification of court policy and practice, or other appropriate means.

If OJJDP makes a finding that a State is in full compliance with de minimis exceptions based, in part, upon the submission of an acceptable plan under Criteria C above, the State will be required to include the plan as part of its current or next submitted formula grant plan as appropriate. OJJDP will measure the State's success in implementing the plan by comparison of the data in the next monitoring report indicating the extent to which non-compliant incidences have been eliminated.

Criterion C

1. **If the instances of non-compliance are sanctioned by or consistent with State law or executive judicial policy, then the plan must detail a strategy to modify the law or policy to prohibit non-compliance placement so that it is consistent with the Federal deinstitutionalization requirement.**

Answer:

Current Arizona State law does sanction some reported violations of the DSO regulation. Specifically, this includes A.R.S. § 4-246, which defines possession or consumption of spirituous liquor by a minor as a class one misdemeanor. In addition, A.R.S. § 8-305, paragraph A provides for the use of juvenile detention facilities to detain status offenders (incorrigible children).

**Arizona is pursuing proposing a change to A.R.S. § 4-246 to change the classification of minors in possession or consumption of alcohol to a status offense during the next legislative session (beginning in January 2004).**

However, as detailed in Criterion B, answer number 2, 56 percent of the DSO violations committed by adult jails and lockups *are* in violation of State law.

**In addition, 50 percent of Arizona's DSO violations in juvenile detention centers were Federal Wards or out-of-state runaways, and another 37 percent were cases that may have been considered Valid Court Order Exceptions.** Therefore, only 13 percent of the violations were detentions that may not be possible exceptions (with a possible violation rate of 14.19).

**With the change in the VCO criteria in the 2002 reauthorization of the JJDP Act, Arizona will begin to utilize the VCO Exception beginning in the 2004 reporting year, thus eliminating a significant portion of reported violations.** Arizona recently utilized the technical assistance available from OJJDP to host a statewide training of juvenile court and probation personnel regarding implementation, use, and verification of the Valid Court Order Process.

2. **If the instances of non-compliance are in apparent violation of State law or established executive or judicial policy, but amount to or constitute a pattern or practice rather than isolated instances of non-compliance, the plan must detail a strategy which will be employed to rapidly identify violations and ensure the prompt enforcement of applicable State law or executive judicial policy.**

Answer:

All instances of non-compliance that were in apparent violation of State law or established executive judicial policy were isolated incidents and do not constitute a pattern or practice. Each situation of a violation is dealt with according to the unique situation that caused the violation. Immediate follow-up is conducted with each agency and technical assistance regarding the JJDP Act regulations provided, if necessary.

3. **The plan must be targeted specifically to the agencies, courts, or facilities responsible for the placement of status offenders and nonoffenders in compliance with DSO. It must include a specific strategy to eliminate instances of non-compliance through statutory reform, changes in facility policy and procedure, modification of court policy and practice, or other appropriate means.**

Answer:

Components of Arizona's plan to reduce DSO violations include:

| Strategy                                                                                                                                   | Time Frame                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| Implement use of the Valid Court Order Exception                                                                                           | 2004 Federal Fiscal Year (October 1, 2003).               |
| Pursue a legislative change to the classification of minor consumption/possession of alcohol from a delinquent offense to a status offense | 2004 legislative session (beginning in January 2004)      |
| Develop partnership with Arizona's peace officer training academy to enhance training to state law enforcement agencies                    | Initiated in 2003 – ongoing development and collaboration |

#### Progress Made

**Valid Court Order Exception:** Arizona becomes eligible to begin claiming Valid Court Order Exception cases beginning on October 1, 2003. A statewide training session regarding implementation, use, and verification of the Valid Court Order Exception was held on September 30, 2003. This training was provided upon Arizona's submittal of a technical assistance request to OJJDP. As a result of this training, each county was present to discuss what the Valid Court Order Exception means, how important it is to Arizona's compliance with the JJDP Act, and the implementation of this process in each of their courts.

As each county has their own court process, the latter part of the training session was utilized to assist each county in reviewing the Valid Court Order Exception requirements and identifying any modifications needed to their current court process in order to meet the criteria. Sample forms were also provided to participants to assist them in documenting their compliance with all VCO criteria.

With the assistance from OJJDP and the contractor provided to assist with the training, Arizona is able to implement this process on October 1, 2003. Continued contact with juvenile courts is occurring to ensure they fully implement the process, are documenting it properly, and develop formal procedures to codify the process.

**Legislative Change:** Arizona is pursuing a legislative change from minor consumption or possession of alcohol from a delinquent offense to a status offense. The process of drafting the change and building the coalition to support it began in summer 2003, preparing for the legislative session beginning in January 2004.

The Governor's Office legislative staff continues to work with the Governor's Division for Children, the Arizona Juvenile Justice Commission (State SAG), and community juvenile justice stakeholders to prepare for the session.

**Partnership with Arizona's Peace Officer Training Academy:** The Governor's Division for Children has begun to develop a partnership with Arizona's peace officer training oversight board, Arizona Peace Officer Standards and Training (AZ POST). This partnership has already resulted in an enhancement of the training that officers going through academy receive regarding procedures in accordance with the JJDP Act core requirements. In the future, desired results include increased annual training available to officers regarding juvenile law matters that relate to the JJDP Act core requirements and assistance with producing, distributing, and possibly funding of training materials to all law enforcement agencies, including training manuals and briefing videos.

Arizona also continues to devote much time and attention to the issue of complying with the core requirements. First and foremost, this is evident in the priority given these issues in recent years by Arizona's State Advisory Group, the Arizona Juvenile Justice Commission, as shown below.

| Year                                           | Funding for Compliance Monitoring | Funding for DSO  | Funding for Jail Removal | Funding for Separation |
|------------------------------------------------|-----------------------------------|------------------|--------------------------|------------------------|
| 2000 Three-Year Plan                           | 35,850                            | 35,820           | 35,820                   | 35,820                 |
| 2001 Three-Year Plan Update                    | 35,100                            | 161,250          | 35,100                   | 35,100                 |
| 2002 Three-Year Plan Update                    | 58,000                            | 161,338          | 100,000                  | 58,000                 |
| 2003 Three-Year Plan                           | 44,900                            | 269,900          | 84,900                   | 22,075                 |
| <b>Total Dollar Increase from 2000 to 2003</b> | <b>+ 9,050</b>                    | <b>+ 234,080</b> | <b>+ 49,080</b>          | <b>- 13,745</b>        |

Funding for programs that address the DSO core requirement have been defined as priority activity areas for the past few years in the Title II and Challenge grant Request for Grant Applications (RFGA). Listed below are some examples of programs that have been funded under these activity areas:

- **Maricopa County Juvenile Court – Project SOAR (Status Offender Alternative Response):** Juvenile Probation alternative program to divert status offenders from the formal court system and detention.
- **Maricopa County Juvenile Court – FINS (Families in Need of Services) Unit:** Streamlines the process the juvenile court uses to deal with status offenders to divert them from the formal court process; supports a Family Reunification and Assessment Specialist, Intervention Specialists, and Mediators to provide services to status offenders and their families.
- **Prehab of Arizona – Mayfield Center:** Crisis intervention services and community-based diversion program; Serves as an alternative to detention for law enforcement.
- **Westside Social Services - Juvenile Alternatives in Glendale (JAG Center):** Crisis intervention services and a community-based diversion program; Serves as an alternative to detention for law enforcement.
- **Open Inn – Center for Juvenile Alternatives (Tucson):** Crisis intervention services and a community-based diversion program; Serves as an alternative to detention for law enforcement; Provides community outreach services regarding the alternative center and how use can assist with maintaining compliance with the JJDP Act.

- **Tumbleweed Center for Youth Development – Open Hands Program:** Emergency shelter and counseling services for court-referred non-system youth, which includes status offenders (incorrigibles, runaways).
- **Northland Family Help Center:** Provides prevention and shelter services for non-adjudicated minors and their families, and serves as diversion from the formal juvenile court process.
- **Deveraux Arizona – Northern Arizona Youth Alternative Center (NAYAC):** Serves as an alternative to detention for law enforcement.

In addition, the Request for Grant Application put forth in early 2004 will include enhanced language regarding compliance and a continued focus on proposals that will address Arizona's current DSO violations.

#### Compliance/Legislative Committee

Arizona reviews compliance issues on a regular basis through the efforts of the Compliance/Legislative Committee, a subcommittee of the Arizona Juvenile Justice Commission. This committee is currently undergoing a future strategic planning initiative, which will include an increased focus on law enforcement partnerships, as well as the legislative proposal to change minor possession/consumption of alcohol to a status offense. Also, if any issues arise with the implementation of the Valid Court Order Exception, the committee will be advised of their possible role with juvenile courts to resolve them.

#### **Other recent examples of efforts undertaken by Arizona in addressing DSO are:**

- Reference cards detailing the core requirements and keys to compliance made available to law enforcement agencies;
- Full page printouts of the core requirements mailed to each secure facility for posting in the secure area to remind officers of compliance;
- Many law enforcement departments have been willing to modify their departmental procedures regarding temporary holding of juveniles to correlate to the JJDP Act core requirements;
- Continued facility-specific training provided to law enforcement agencies at briefings or supervisor's meetings;
- Information packets provided to each agency at the initial site visit to provide written materials about compliance, reporting, and delinquency prevention grants;
- Strong collaboration with the juvenile court in the largest county in the state to provide in-depth review of the violations and support efforts undertaken to eliminate violations, which in turn created a new division in the department to divert status offenders from the court/detention process;
- Presentations made to organizational entities such as Policy Prevention Boards, Community Advisory Boards, Committee on Juvenile Courts, and probation and judicial officers to promote awareness of and compliance with the core requirements in the community in arenas outside of law enforcement;
- Regular contact with facilities (outside of site visits) to determine if any compliance assistance is required;
- Continued advocacy for policy and/or statute in consonance with the JJDP Act for status offenders who are referred to the juvenile justice system.
- Immediate follow up by the Governor's Division for Children on reported violations and documenting of agency responses to these violations; and,
- Continual compliance updates at Compliance/Legislative committee meetings (subcommittee of the Arizona Juvenile Justice Commission), including discussion of the Valid Court Order process, Federal Wards, and alternatives to detention.

In summary, significant and extensive effort has been and continues to be put forth to address Arizona's violations of the deinstitutionalization of status offenders (DSO) core requirement. Arizona has had to undergo a significant overhaul of its compliance monitoring and data collection process to obtain accurate data in order to effectively address situations that cause violations. **Arizona's enhanced system of comprehensive data collection, increased and specialized training, enhanced technical assistance, best practice programmatic activities, and prioritized fiscal goals, offer a systematic and comprehensive program that, given time, will inevitably result in achieving optimal results.** Arizona welcomes this opportunity to share our progress and success with OJJDP.

If OJJDP makes a finding that a State is in full compliance with de minimis exceptions based, in part, upon the submission of an acceptable plan under Criteria C above, the State will be required to include the plan as part of its current or next submitted formula grant plan as appropriate. OJJDP will measure the State's success in implementing the plan by comparison of the data in the next monitoring report indicating the extent to which non-compliance incidences have been eliminated.

## Arizona Compliance Monitoring Report 2003 State Summary: Separation

### Section 223(a)(13): Separation of Juveniles and Adults.

**The number of juvenile offenders and nonoffenders not separated from adult criminal offenders:**

**0**

The State is in full compliance with this requirement. The State does not need to address the items listed below.

Attach a summary to discuss the extent of the State's compliance in implementing Section 223(a)(13), and how reductions have been achieved, including the identification of State legislation which directly impacts on compliance. Discuss any proposed or recently passed legislation or policy which has either positive or negative impact on achieving or maintaining compliance. As part of this summary, answer the following:

1. Did all instances of noncompliance violate State law, court rule, or established executive or judicial policy?
2. Did the instances of noncompliance indicate a pattern or practice?
3. Are existing mechanisms for enforcing the State's separation law, court rule, or other established executive or judicial policy such that the instances of noncompliance are unlikely to recur in the future?
4. Describe the State's plan to eliminate the noncompliant incidents.

## Arizona Compliance Monitoring Report 2003 State Summary: Jail Removal

### Section 223(a)(14): Removal of juveniles from adult jails and lockups.

Rate of jail removal violations per 100,000 population under 18:

**12.07**

The State does not qualify for the numerical de minimis exception. Please attach a narrative describing the substantive de minimis information listed below. There is no need to address the numerical de minimis information.

**Numerical De Minimis:** The extent that noncompliance is insignificant or of slight consequence.

Acceptable Plan: Describe the State's plan to eliminate the noncompliant incidents through the enactment or enforcement of State law, rule, or statewide executive or judicial policy, education, the provision of alternatives, or other effective means.

**Substantive De Minimis:** The extent that noncompliance is insignificant or of slight consequence.

1. Recently Enacted Changes in State Law Exception to Substantive De Minimis: Describe recently enacted changes in State law which have gone into effect, and which can reasonably be expected to have a substantial, significant, and positive impact on the State's achieving full (100%) compliance, or full compliance with the with de minimis exceptions by the end of the monitoring period immediately following the monitoring period under consideration.
2. Were all instances of noncompliance in violation of or departures from State law, court rule, or other Statewide executive or judicial policy?
3. Do the instances of noncompliance indicate a pattern or practice, or do they constitute isolated instances?
4. Are existing mechanisms for enforcement of the State law, court rule, or other Statewide executive or judicial policy such that the instances of noncompliance are unlikely to recur in the future?
5. Describe the State's plan to eliminate the noncompliant incidents and to monitor the existing enforcement mechanism.



**Substantive De Minimis: The extent that non-compliance is insignificant or of slight consequence.**

1. Recently Enacted Changes in State Law Exception to Substantive De Minimis: Describe recently enacted changes in State law which have gone into effect, and which can reasonably be expected to have a substantial, significant, and positive impact on the State's achieving full (100%) compliance, or full compliance with the de minimis exceptions by the end of the monitoring period immediately following the monitoring period under consideration.

**Answer:**

There are no recently enacted changes in Arizona state law that will have a significant impact upon the State achieving full compliance with the jail removal regulation. However, most of Arizona's jail removal violations are instances of status offenders held securely in an adult jail or lockup (72 percent). Therefore, programs funded by the Arizona Juvenile Justice Commission, as described in DSO Criterion C, will assist with law enforcement compliance, as several alternatives to detention have been funded (for example, J.A.G. Center, Mayfield Center, NAYAC, Center for Juvenile Alternatives, and Open Hands.)

In addition, as described in DSO Criterion C, question 3, Arizona is currently developing a relationship with the Arizona Peace Officer Standards and Training Board to enhance law enforcement training regarding juveniles. This relationship has already resulted in academy training revisions to include JJDP Act regulations. Future initiatives to explore will be a training/briefing video and collaboration on a law enforcement training manual.

2. Were all instances of non-compliance in violation or departures from State law, court rule, or other statewide executive or judicial policy?

**Answer:**

Of the 165 jail removal violations in the 2003 reporting year, 113 violations (68 percent) were in apparent violation of A.R.S. § 8-305, paragraph C1 or paragraph D (page 9d). The remaining 52 violations (32 percent) that were not in violation of state law are minor in possession or consumption of alcohol offenses, as Arizona State Law defines minor in possession as a delinquent offense (page 9e).

It should be noted that only 46 violations (28 percent) were violations of the six-hour secure detention rule; the remaining 119 (72 percent) violations were instances of accused status offenders or non-offenders securely detained in an adult jail or lockup for any length of time.

3. Do the instances of non-compliance indicate a pattern or practice, or do they constitute isolated instances?

**Answer:**

All instances of non-compliance were isolated incidents. Immediate follow-up is conducted regarding reported violations and technical assistance regarding the JJDP Act regulations provided, if necessary.

4. Are existing mechanisms for enforcement of the State law, court rule, or other Statewide executive or judicial policy such that the instances of non-compliance are unlikely to recur in the future?

**Answer:**

Specific mechanisms for enforcing State law are not in place in the Governor's Division for Children, the agency that conducts compliance monitoring activities for Arizona, as it does not serve as an enforcement agency.

However, future consideration may be given to requiring compliance plans or withholding JJDP Act funding from a community that is not in compliance with any one of the core requirements. In addition, communities are not permitted to apply for Title V funds if a finding of non-compliance is rendered and compliance plans are required for those communities that are in the de minimis range.

In addition, when an agency reports a violation, immediate follow-up is conducted to determine the circumstances surrounding the violation, any necessary follow-up activities, and remind officials of the federal regulations.

Finally, if an agency or community is having numerous compliance issues, specific regional training may be provided; a referral to the local County or City Attorney's office may also be suggested if violations reported are also violations of Arizona State Law.

5. Describe the State's plan to eliminate the non-compliant incidents and to monitor the existing enforcement mechanism.

**Answer:**

As the majority of the violations of this regulation center around the secure detention of status offenders or non-offenders (72 percent), the state plan outlined in the DSO state summary, Criterion C, is applicable to this question.

Please print and submit this Monitoring Report Data Worksheet with your Annual Compliance Monitoring Report. It is used by OJJDP to track States' compliance. DO NOT MAKE ANY CHANGES TO THIS WORKSHEET.

## Monitoring Report Data Worksheet

State: **Arizona** Year: **2003** Sup: Reviewer:

Juvenile Population:   # Under 18: **1366947** State Age of Majority: **18** # by State Definition:

| Section 223(a)(12)(A) DSO |  | Current Dates (Start/End) |          |                    |            |             |
|---------------------------|--|---------------------------|----------|--------------------|------------|-------------|
|                           |  | 07/01/02                  | 07/01/03 | Totals             | Accused    | Adjudicated |
| Number of VCOs:           |  | <b>0</b>                  |          |                    |            |             |
|                           |  |                           |          | Juvenile Detention | <b>404</b> | <b>21</b>   |
|                           |  |                           |          | Training School    | <b>0</b>   | <b>0</b>    |
|                           |  |                           |          | Adult Jails        | <b>3</b>   | <b>0</b>    |
|                           |  |                           |          | Adult Lockups      | <b>116</b> | <b>0</b>    |
|                           |  |                           |          | ONA                | <b>0</b>   | <b>0</b>    |

Out of State Runaways: **61** Federal Wards: **141**

| Section 223(a)(13)(A) Separation |  | Current Dates (Start/End) |          |               |                      |                |
|----------------------------------|--|---------------------------|----------|---------------|----------------------|----------------|
|                                  |  | 07/01/02                  | 07/01/03 |               | # Facilities w/o Sep | # of Juveniles |
|                                  |  |                           |          | Current       |                      |                |
|                                  |  |                           |          | Jails + Other | <b>0</b>             | <b>0</b>       |
|                                  |  |                           |          | Lockups       | <b>0</b>             | <b>0</b>       |

|                               |         |         |         |            |                           |       |               |       |         |       |              |                   |
|-------------------------------|---------|---------|---------|------------|---------------------------|-------|---------------|-------|---------|-------|--------------|-------------------|
| Section 223(a)(14)(A) Removal |         |         |         |            | Current Dates (Start/End) |       |               |       |         |       |              |                   |
|                               |         |         |         |            | 07/01/02                  |       | 07/01/03      |       |         |       |              |                   |
| Facilities                    |         |         |         |            | Criminal Type Offenders   |       |               |       |         |       |              |                   |
| # Jails                       | #       | #       | #       | #          | # Accused                 |       | # Adjudicated |       | # SO    |       | Total # Held | # Exceptions Held |
|                               | Holding | Lockups | Holding | Exceptions | in Jail                   | in LU | In Jail       | in LU | in Jail | In LU |              |                   |
| 33                            | 2       | 106     | 62      | 0          | 0                         | 46    | 0             | 0     | 3       | 116   |              | 0                 |
|                               |         |         |         |            |                           |       |               |       |         |       |              |                   |